

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1836 of 2019

Arising Out of PS. Case No.-324 Year-2019 Thana- SHRIKRISHNAPURI District- Patna

DEEPAK KUMAR @ DEEPAK KUMAR SAH @ DEEPAK SAH Son of
Late Surendra Prasad Sah @ Surendra Prasad Resident of Lohapatti, P.S.-
Kotwali, District- Bhagalpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY, GOVT. OF BIHAR, PATNA Bihar
2. The Director General of Police, Government of Bihar, Patna Bihar
3. The Inspector General of Police, Patna Range, District Patna Bihar
4. The Deputy Inspector General of Police, Patna Range, District- Patna Bihar
5. The Superintendent of Police, Patna, District- Patna Bihar
6. The Deputy Superintendent of Police, Patna, District- Patna Bihar
7. The Officer-in-charge Sri Krishnapuri Police Station, District- Patna Bihar
8. The Investigating Officer, Sri Krishnapuri, P.S. Case No. 324 of 2019, District- Patna Bihar
9. Praveen Kumar Son of Ram Chandra Singh Resident of Village - Bajitpur, P.S.- Bihta, District- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar
For the Respondent/s : Mr. Prabhat Kumar Verma

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

C.A.V.

Date : -03-2024

1. The petitioner has filed the present writ application for quashing of First Information Report bearing S. K. Puri Police Station Case No. 324 of 2019, dated 10.09.2019, registered under Sections 379/427 of the Indian Penal Code.

2. The First Information Report was lodged by the informant-respondent no. 9 on 10.09.2019, stating therein, that



brother of the informant, namely, Rajeev Ranjan Singh is the owner of Hyundai Creta Car and for three months the said car was parked in the House No. 10B, Sahdeo Mahto Marg, S. K. Puri, Patna. Deepak Kumar Sah i.e. the petitioner has stolen the car after breaking the glass of the car's window, the car can be misused by the petitioner. The house, from where the car has been stolen, is a disputed property. The papers of the vehicle were kept in the car and keys are in custody of the informant.

3. Learned counsel for the petitioner submits that the First Information Report, in question, has been lodged with oblique motive and unclean hands in order to take vengeance due to property dispute. The caretaker of the House No. 10B, Sahdeo Mahto Marg, S. K. Puri, Patna, namely, Suman Kumar Singh, has lodged written report on 10.06.2019 against the brother of the informant, namely, Rajeev Ranjan Singh, and his twenty unknown henchmen, alleging that the house belongs to his aunt's (bua) mother, namely, Dr. Devantala Singh, having only child, namely, Amita Mehta, who presently lives in New Jersey, United States.

4. Suman Kumar Singh takes care of the house/property, but for the last six months, Rajeev Ranjan Singh (brother of the informant), on the basis of some forged documents, obtained from the Municipal Corporation, was trying to illegally grab the house.



In the morning hours of 09.06.2019, ten to twenty persons entered into the house with lethal weapons in their hands, threatened to kill the staff, destroyed CCTV cameras and also removed the name plate fixed outside of the house and fixed his name plate.

5. On the basis of aforesaid complaint, First Information Report, bearing S. K. Puri Police Station Case No. 197 of 2019, was registered against the brother of the informant and twenty unknown persons under various sections.

6. It has further been argued that when no action was taken by the police on the basis of First Information Report lodged by the caretaker, brother of the informant-Rajeev Ranjan Singh, along with other anti-social elements, entered into the premises and started living there illegally.

7. The petitioner lodged the First Information Report, bearing S. K. Puri Police Station Case No. 224 of 2019, dated 06.07.2019, against the brother of the informant and his henchmen stating that the petitioner is the power of attorney of the house i.e. House No. 10B, Sahdeo Mahto Marg, S. K. Puri, Patna. On 06.07.2019, around five to six persons were putting up the name plate of a person, namely, Rajeev Ranjan Singh @ Raju Singh after removing the name plate of Dr. Devantala Singh. Upon objection, they threatened to kill the petitioner and called 40 to 50



more persons, who were carrying illegal weapons. They also parked one Hyundai Creta car, without number plate, in the portico of the house, regarding which it has been alleged that the same was stolen.

8. Accordingly, the submission is that the First Information Report, lodged by the informant against the petitioner, on the face of it, is vexatious, which has been lodged after the First Information Report, bearing S. K. Puri Police Station Case No. 197 of 2019, dated 17.06.2019, lodged by Suman Kumar Singh, who is caretaker of the house, in question, and S. K. Puri Police Station Case No. 224 of 2019, dated 06.07.2019, lodged by the petitioner.

9. The informant-respondent no. 9, in order to take vengeance from the petitioner, has filed the present First Information Report. The petitioner himself is a victim of organised crime of land grabbing run by the informant's brother.

10. Further submission is that from plain reading of the impugned First Information Report annexed at Annexure-1, it is clear the no offence under Sections 379 and 427 of the Indian Penal Code is made out.

11. From perusal of the two First Information Report lodged by the caretaker as well as the petitioner, it is clear that the



informant's brother, who is land mafia, and his henchmen were in illegal occupation of the house, in question. The alleged Hyundai Creta car, belonging to the informant's brother, was parked in the disputed house illegally.

12. The alleged stolen car was seized by the police after 40 minutes of lodging of the First Information Report and Seizure Memo, dated 10.09.2019, at 08:50 PM, was prepared. From perusal it would be evident that the said car was recovered from the parking of Patna Municipal Corporation situated near Kulhad Tea Shop at Sahdeo Mahto Marg, S. K. Puri, Patna, which is at stone's throw distance from the disputed house.

13. The chargesheet has been filed in the First Information Report, bearing S. K. Puri Police Station Case No. 224 of 2019, lodged by the petitioner against the informant's brother and his henchmen, which shows that the allegation of house grabbing is correct.

14. Learned counsel relies upon the judgment passed in **State of Haryana and Ors. v. Bhajan Lal and Ors.** reported in **AIR 1992 SC 604.**

15. Despite service of valid notice upon the respondent no. 9 and despite several opportunities having been given, no one



appears on behalf of the respondent no. 9 and also no reply was filed.

16. I have heard learned counsel for the petitioner as well as the State.

17. Upon bare reading of the First Information Report, it appears that the allegation against the petitioner is that the Hyundai Creta car was stolen from the House No. 10B, Sahdeo Mahto Marg, S. K. Puri, Patna. The car has been recovered from parking lot of Patna Municipal Corporation situated in the same locality of S. K. Puri and within 40 minutes of lodging of the First Information Report.

18. From Annexure-2 and 3, which are the First Information Report lodged by the petitioner as well as caretaker of the house, in question, it appears that the informant's brother, along with his henchmen, is named in the First Information Report for alleged grabbing of the house, in question, as such, it appears that the said house is a disputed one.

19. In First Information Report lodged by the petitioner, the petitioner has alleged that the Hyundai Creta car, belonging to the informant's brother, was parked in the portico of the disputed house.



20. Hon'ble Apex Court in a judgment passed in **Mahmood Ali and Ors. v. State of Uttar Pradesh and Ors.** reported in **2023 SCC Online SC 950** has observed that it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines.

21. In **State of Haryana (supra)**, the Hon'ble Supreme Court has laid down the principles of quashing, including the principle that where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to previous and personal grudge.

22. Upon objective consideration of the materials available on record and attending circumstances emerging from the record of the case with due care and circumspection, I arrive at the conclusion that the present First Information Report is



frivolous, vexatious and has been instituted with ulterior motive to take vengeance as a counter blast to the two First Information Reports lodged by the petitioner as well as care taker of the disputed house, in question.

23. In the result, this criminal writ application is allowed and the First Information Report, bearing S. K. Puri Police Station Case No. 324 of 2019, lodged against the petitioner is hereby quashed.

24. There shall be no order as to costs.

(Anil Kumar Sinha, J)

ashwani/-

AFR/NAFR	AFR
CAV DATE	02.02.2024
Uploading Date	22.03.2024
Transmission Date	N/A

